

# Institutional Independence, impunity and transitional justice

Pre-Session 4th Cycle of the UPR  
EL SALVADOR

Idhuca

# Lack of institutional independence

El Salvador accepted:

- 9 Recommendations on Administration of Justice and Fair Trial
- 4 on the Right to an Effective Remedy and Reparations
- 6 on Impunity and Transitional Justice.

El Salvador committed to strengthening the Rule of Law and ending impunity.

# Lack of institutional independence

The 2021-2024 term Congress assumed its mandate on May 1, 2021, with the ruling party holding the majority.

As its first action, in that initial session, they summarily dismissed and replaced the five judges of the Constitutional Chamber of the Supreme Court of Justice (CSJ) and the Attorney General. Without following due process, they immediately installed individuals loyal to the Executive branch.

From that moment on, the government has controlled all three branches, as well as other public institutions, since it is the Congress that appoints second-level officials.

# Lack of institutional independence

The control of the three branches of government has led to various reforms aimed at concentrating more power. These reforms are:

- Regressives in human rights
- Disrespectful of the Constitution
- They ignore international standards

Today, there is no public institution that is independent or impartial.

This is how a Constitutional Chamber, without guarantees of independence, allowed immediate presidential re-election, despite the explicit prohibition in the Constitution in at least six articles (75 ord. 4, 88, 131 ord. 16, 152 ord, 154, 248 inc. 4)

The lack of guarantees implies that there are no effective resources to control power.

# Lack of institutional independence

The weakening of the independence of the judicial body; the lack of due process; the ineffectiveness of accountability and investigation mechanisms of human rights violations and the deployment of a series of government actions that restrict civic space demonstrate how El Salvador has abandoned efforts to promote a fair trial and combat impunity:

The impunity of the past is added to the impunity of the present.

# Impunity and Transitional Justice

## Delay and Freezing Investigations and Criminal Cases on Crimes Committed During the Armed Conflict

In the previous UPR, El Salvador committed to investigating and sanctioning those responsible for international crimes and grave human rights violations, especially those committed during the armed conflict.

Eight years after the repeal of the 1993 General Amnesty Law and the reopening of criminal investigations, no responsible parties have been convicted or sanctioned for the damages caused, as required by international standards.

# Impunity and Transitional Justice

There is no Transitional Justice Law

El Salvador still lacks a Transitional Justice Law or any other regulation to guarantee the rights to truth, justice, and comprehensive reparation for victims of the armed conflict.

Since 2016, there has been a ruling by the Constitutional Chamber of the Supreme Court (CSJ) ordering the Congress to enact legislation in accordance with El Salvador's international obligations in this regard.

# Impunity and Transitional Justice

## There is no Transitional Justice Law

Between 2019 and 2024, victims and human rights organizations submitted three draft bills on transitional justice to the Congress, which were neither studied nor discussed.

Instead, the 2018-2021 legislature discussed four bills, all of which contained provisions contrary to International Law and did not guarantee victims' rights.

In 2020, the Congress approved the "Law of Transitional Justice, Reparation, and National Reconciliation," which included provisions on reparations but maintained mechanisms of impunity that prevented the criminal prosecution and punishment of those responsible.

This decree was vetoed by President Bukele for constitutional violations, and he returned it to the Assembly for debate and study, but this never happened. To date, no legislative proposal has been put forward by Congress, nor has there been any study of the bills submitted by victims and civil society.



# Impunity and Transitional Justice

## Recommendations

- Guarantee respect for the rule of law, separation of powers, independence and impartiality, as well as an effective accountability system.
- Design and implement state measures aimed at providing reparations to those whose rights have been violated in this context, as well as adopting all necessary actions to guarantee the non-repetition of the events.
- Approve a Transitional Justice Law, respecting the principle of victim centrality, the parameters of the ruling declaring the General Amnesty Law unconstitutional, and international human rights standards, ensuring an intersectional and gender-sensitive approach.

# Impunity and Transitional Justice

## Recommendations

- Accelerate the full compliance with the 2016 ruling of the Constitutional Chamber of the CSJ declaring the General Amnesty Law unconstitutional, ensuring the right of victims and their representatives to be informed of such processes and to participate in the formulation of public policies or decisions that affect them.
- Ensure the progress of criminal investigations of crimes committed during the armed conflict attributed to both sides, guaranteeing due process in the investigations and proceedings, as well as dignified treatment and active participation of the victims and their representatives.
- Adopt measures to strengthen the independence and due diligence of investigators, prosecutors, and judges involved in the criminal prosecution of crimes from the armed conflict.